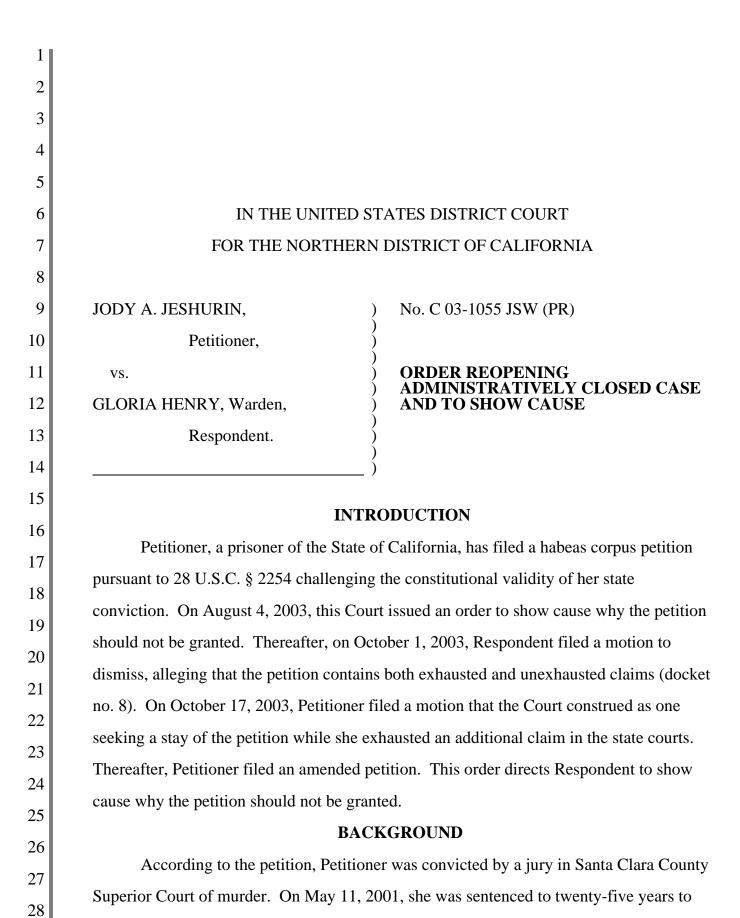
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life in state prison. The California Court of Appeal affirmed the judgment of conviction

in 2001, and the Supreme Court of California denied review in 2002. Petitioner

29, 2003.

DISCUSSION

commenced this action on May 11, 2003 and filed a habeas petition in this action on May

I Standard of Review

This Court may entertain a petition for a writ of habeas corpus "in behalf of a person in custody pursuant to the judgment of a State court only on the ground that [s]he is in custody in violation of the Constitution or laws or treaties of the United States." 28 U.S.C. § 2254(a).

It shall "award the writ or issue an order directing the respondent to show cause why the writ should not be granted, unless it appears from the application that the applicant or person detained is not entitled thereto." *Id.* § 2243.

II <u>Legal Claims</u>

Petitioner raises the following claims, all of which she alleges were presented to the state courts: (1) the evidence was insufficient to support her felony-murder conviction based on the underlying crime of torture, in violation of the Fourteenth Amendment; (2) her Sixth and Fourteenth Amendment rights were violated by an erroneous jury instruction defining the elements of torture; (3) ineffective assistance of counsel for failing to subpoena crucial witnesses. As it does not appear from the face of the petition that Petitioner is not entitled to relief, Respondent is directed to file an answer to the petition or a dispositive motion, as appropriate.

CONCLUSION

For the foregoing reasons and for good cause shown,

1. The Clerk shall administratively reopen this case and serve by certified mail a copy of this order and the petition, and all attachments thereto, on Respondent. The Clerk also shall serve a copy of this order on Petitioner.

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- 2. Respondent shall file with the Court and serve on Petitioner, within sixty (60) days of the issuance of this order, an answer conforming in all respects to Rule 5 of the Rules Governing Section 2254 Cases, showing cause why a writ of habeas corpus should not be granted. Respondent shall file with the answer and serve on Petitioner a copy of all portions of the state trial record that have been transcribed previously and that are relevant to a determination of the issues presented by the petition.
- 3. If Petitioner wishes to respond to the answer, she shall do so by filing a traverse with the Court and serving it on Respondent within thirty (30) days of her receipt of the answer.
- 4. Respondent may file a motion to dismiss on procedural grounds in lieu of an answer, as set forth in the Advisory Committee Notes to Rule 4 of the Rules Governing Section 2254 Cases. If Respondent files such a motion, Petitioner shall file with the Court and serve on Respondent an opposition or statement of non-opposition within thirty (30) days of receipt of the motion, and Respondent shall file with the Court and serve on Petitioner a reply within **fifteen (15)** days of receipt of any opposition.

IT IS SO ORDERED.

DATED: April 5, 2006

United States District Judge